3:Stern E-4,5 (1949-1957) 1965 NR10 Klamath NR10 •
Modoc NS17

[Klamath Reservation]

association and residence. The membership thus construed included not alone the reservation peoples, but the absentee Modoc and those who had severed their connections with the reservation.

The ambiguities thus introduced might have been avoided in part had the allotment program maintained some of the provisions of an early allotment plan outlined in 1871 by Commissioner E. S. Parker. By its terms, residence and association taken together were to be made the primary criteria. Whites or interbreeds married to tribal women, who resided with them upon the reservation, and who had been adopted into the tribe might be allotted. Indian women married to whites and living off the reservation forfeited that right, and the children of Indian women living in common-law relations with whites were to receive a share of land only if they moved back to the reservation.[39] It should be remarked, however, that this principle would only have been effective in preventing absentee ownership had residence also been required of heirs. Otherwise, in the first generation the allotments would have been treated like an inherited property. That, indeed, was their fate under the administration of the Dawes Act.

Once allotted, an Indian had a new status. His allotment could be fenced and it could be leased. The results of his industry, together with anticipated lease funds made many a man a good risk for advances in merchandise and foodstuffs. Citizenship lay within his grasp, involving with it a changing jurisdiction under law and bringing about a restive reappraisal of the sometimes autocratic rule of the Superintendent.

The original intent of the act had been to transform the Indians into yeomen-farmers. That 160 acres of grazing land on the upper reservation was an economically practicable unit had been doubted by Nickerson, and the subsequent experience of at least one white rancher with long experience in the same area tends to confirm that judgment. At the same time, when several members of a family possessed adjoining tracts, the acreage might be adequate. In later times at least there were complications. Remarked Wilson in 1909:

> . . . the allotting was not made as it should have been made. An Indian will be allotted in Modoc Point district and perhaps

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

[Klamath Reservation]

heeded. Surely, the government stands in some measure accountable here; and the Indian viewpoint bears a rough relationship to the events of their history. It errs, however, in oversimplification and has the important consequence of deflecting all responsibility for the condition of the Indians upon the shoulders of others.

These developments, when related to the promise of citizenship for Indians, became critical. Originally the Allotment Act had designed that all Indians living apart from their tribes and in assimilation to whites should be awarded citizenship; and that any reservation Indian, upon receiving a patent in trust, would attain the same status. Subsequent amendments postponed citizenship until a patent in fee had been secured. For the Klamath reservation, the local timetable had the result that no trust patents were awarded until all allotments had been made, a condition that in turn had to await settlement of several of the claims suits. The assignment of lands thus took place in an atmosphere heavy with the anticipation of a swift change of status. The better-educated among the leaders, who in turn mingled with those whom allotment had brought back into the reservation polity, were eager to press for greater freedom and increased self-rule.

Signally, administrators believed the same act implied they had a heightened responsibility toward their charges. Schooling had become compulsory, and O. C. Applegate, then Agent, was convinced that allottees should send their children by preference to reservation school. Repeatedly, in his letters to those seeking allotments, he urged them to send their children to the boarding school "where they will be boarded and clothed without expense to you."[4] To a schoolboy who wished to remain away, he wrote, "Tell your father that I intend all the children to have land on the reservation, and that they must come into school according to the rules."[5] When one off-reservation member failed to send her children to school after having consented to do so, Applegate firmly reproved her and added, "Please write me at once what you propose to do about them, and if it is your wish to have them give up their allotments on the reservation."[6]

The relationship between schools on and off the reservation now took on a new dimension. Some of the more acculturated tribal members began to criticize the Agency-run schools as

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

[Klamath Reservation]

FOURTEEN

[P.196]

Local Political Relations

*648 *657 • 641 IN ADDITION TO THE SPECIAL RELATIONSHIP EACH KLAMATH BORE to the federal government, both through the Tribe and as an individual, he also entered formally into the role of citizen in a hierarchy of political bodies, ranging from the United States, through state and county, and often participated as well in one of the communities within the reservation. In those relationships, however, his tribal status sometimes conferred upon him special immunities with regard to taxation and the exercise of law. Until the last days of the reservation, when jurisdiction was transferred to the state of Oregon,[1] those Klamath who remained in trust status were responsible solely in federal courts for the commission on Indian land of the so-called "ten major crimes."[2]

[423] Only when the member received a fee patent upon his allotment or—for those who had not been assigned a tract—had all his property placed in unrestricted status, did he become subject to state courts. Oregon's jurisdiction extended within the reservation to the state highways traversing it and to all lands held in fee simple. Since the "Indian country" within the boundaries of the reservation had become checkerboarded with white-owned ranches, the fee-simple tracts of tribal members, together with trust lands and tribally owned territory, the title to which resided with the government, the jurisdictional aspect of law enforcement posed serious problems.

Within this setting operated an interlocking set of agencies, including the state police and courts, the county sheriff and justices of the peace, and the municipal marshal and police judge of communities such as Chiloquin. The sometime immunity of tribal members to their jurisdiction was a frequent cause for comment. Wrote Superintendent Arnold in 1930:

3:Stern E-4,5 (1949-1957) 1965 NR10 Klamath NR10

[Klamath Reservation]

> I might call attention to the fact that at the last election in Klamath County a trust patented Indian was elected Justice of the Peace, and a fee patented Indian was elected Constable of the Beatty District on the Klamath reservation. It seems a rather unusual situation when a trust patented Indian can preside as a judge over a court and pass sentence on other people and at the same time question the same court's jurisdiction over him.[3]

Nor was this all. Federally regulated land on the reservation was off bounds for officers of the law from city, county, and state; yet in 1947 there were only two special Indian officers and two deputies to enforce law and order over almost one million acres of reservation. It was physically impossible for them to follow up all cases, and consequently they could not deal effectively with the misdemeanors of delinquents or with truancy from the county schools.

In the 1920's, soon after the opening of the reservation, towns such as Chiloquin were faced with the influx of a mobile population in which the unmarried "timber beast" was prominent. Roistering and violence occasionally assumed major proportions, and law enforcement broke down at first. Within the first three years after its incorporation in 1926, Chiloquin witnessed no less than twelve appointments to the position of town marshal. At times the Superintendent, concerned over the effect upon the Indians, intervened, delivering an ultimatum or sending in his officers to restore order. His jurisdiction, in turn, was also limited: When Arnold brought pressure to bear upon Chiloquin authorities to close down gambling in the pool halls and card rooms, the gamblers merely shifted their operation to Bly, just over the eastern boundary of the reservation, and the same procedure had to be repeated by state and local officials there.

The interdependence of law enforcement on state lands and reservation was emphasized during the depression. In 1931, when logging on the reservation—and with it tribal income—had been temporarily reduced by Washington, a tribal leader, Wade Crawford, succeeded in securing a congressional cut in the administrative budget of the Agency, which from about 1924 had been supported out of tribal revenue. Since the budgetary allocation for law enforcement then became inadequate, the federal officers left, until there remained only a constable and an

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

[Klamath Reservation]

Indian officer, both at Beatty. Thereupon, Chiloquin's marshal and his deputy also resigned, asserting that enforcement under those conditions was too difficult—and too dangerous, to boot. The county, which had already barred tribal members from the county jail, now took the position that, short of a government request, its courts would try no more Indian cases. Crawford countered with a proposal that the Court of Indian Offenses be reinstituted, while other leaders fell back upon that time-honored solution, the United States cavalry. Several months passed before funds were found to restore the reservation staff to normal strength.[4]

Within the interlocking jurisdictions of the reservation and the reservation community, Klamath came to play out the role of citizen as a voter, a taxpayer, and the object of legal control. In small towns such as Chiloquin and Sprague River, relationships were primary in character, dominated by face-to-face relationships. Within the special environment of the reservation, with the vast potential of its unexploited resources, something of a western frontier tradition was preserved, with emphasis placed upon individualism and a high premium set upon voluntaristic action in concerting effort.

These conditions were nowhere better evident than in Beatty. In this little community, with fewer than one hundred fifty members, leadership was furnished by a few individuals and action was highly informal. Perhaps the most influential person was a white storekeeper, a resident in the community for almost four decades, who had on occasion donated land and cash for worthy causes, who presided over a credit system, and who was much respected by the older tribal members. Among the latter, a leading spirit was the widow of his brother-in-law, who could be counted upon to act with him. His store was a frequent gathering place and the debating ground of the "hot stove league," where tribal politicians from the Upper End were often to be found. Another local leader was a young white, married to a tribal member, who farmed along the Sprague and in his spare time was a vigorous preacher in the Assembly of God Church.

Indians from other reservations, also married to Klamath, provided specialized leadership. One was prominent in the affairs of

3:Stern E-4,5 (1949-1957) 1965 NR10 Klamath NR10

[Klamath Reservation]

Although tribal members in Chiloquin lagged little behind their white neighbors in registering to vote (1958), their concern was less with local than with national issues.[6]

A second aspect of Indian citizenship was the support of local government through payment of taxes. Since all property held in trust or restricted status by the government, together with income derived from such property, was exempt from taxation, many tribal members occupied an unusual position among their fellow citizens. The effect was particularly felt by the county and local communities, which were heavily dependent upon property taxes. For years, Klamath County sought to secure funds from the government to compensate it for the trust lands within its boundaries, which were served by county roads, sheriffs, courts, and schools. Johnson-O'Malley funds finally provided money in lieu of taxes to support the schools; to these the Klamath Tribe on occasion added funds for special purposes, but the other causes were unavailing.

In Chiloquin, officials resented the action of one Superintendent, who advised tribal residents that any property bought within the city with funds in trust or restricted status might be restored to corresponding status, even though it had been owned in fee simple when purchased. Such house lots were thus removed from the tax rolls and, although benefited by sewers and other municipal improvements, could not be levied for their support. It was not commonly recognized by white citizens of Chiloquin that a number of tribal members paid taxes regularly upon property held in fee simple and that a multitude of indirect taxes fell as heavily upon tribal consumers as upon their fellow citizens. Rather, the image was that of a people exempt from financial responsibility toward the support of local institutions from which they benefited. Though a distortion, like many other parts of the stereotype, this evaluation nonetheless contained a substantial kernel of truth.

If truth be told, the citizens of Chiloquin were no more disposed to pay taxes than American citizens anywhere, and indeed they were somewhat less inclined to do so than those elsewhere in Oregon. In 1951-52, the millage rates of Chiloquin were by far the lowest among the organized communities of Klamath

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

[Klamath Reservation]

County. Of regular municipal income in the year, 1956-57, taxation supplied only a little over four per cent. The largest sources of revenue were the water system, the city tavern (which alone supplied over one-third of the budget), and the proceeds from law enforcement (amounting to over one-fourth of the budget). Since, after the repeal of Indian prohibition in 1951, tribal members had become the major patrons of the municipal tavern, comprising in 1958 an estimated eighty per cent of its clientele, it is evident that in this indirect manner they had come to constitute a major support in the operation of the municipal government.

Nor was this all. The sizable sum derived from law enforcement was highly unusual. While the major enforcement problem in most Oregon cities of comparable size was traffic violations, Chiloquin in 1956-57 found no less than ninety-three per cent of its offenses to be felonies and misdemeanors other than traffic violations. Tribal members and other Indians, including repeaters, accounted for over seventy-two per cent of the arrests; they paid over seventy per cent of the fines and forfeited bail; and they furnished over ninety-six per cent of the trusty labor performed in the city.[7]

Aside from a few individual instances, this record does not reflect a policy of discriminatory arrests on the part of the city administration. It does, however, mark one of the significant confrontations upon the reservation. It was conditioned in part by the special statutory position of the Klamath, for as an Indian under federal supervision he was enjoined by law from having or using liquor and from marrying a white within the state. Until these disabilities were removed in 1951, tribal members were subject to arrest for acts not held criminal when committed by non-Indians. During prohibition, tribal members had learned to operate stills, had taken to drinking extracts, proprietary medicines, rubbing alcohol, and "canned heat" in lieu of scarce liquors, and had both patronized and served as bootleggers. Habits of defiant drinking, akin to those of other Americans during the "dry" years, lingered even into the years after repeal.

Klamath experience with strong drink and violence had neither begun with the reservation towns nor was it confined to them;

3:Stern E-4,5 (1949-1957) 1965 NR 10 Klamath NR 10

Tribal membership was, as we have seen, only one of several political roles in which Klamath might participate, and in some measure it lay athwart the others. Citizenship in the United States, granted generally to American Indians in 1924, affiliation with state, county, and municipality: these political memberships are explicit in character, conditional upon the fulfillment of stated requirements and with the exercise of well-defined rights. Superficially, tribal membership appears to possess a similar character. In the admission of new members, both the establishment of qualifications and the decision upon individual candidates rested with the Tribe, though subject to review by the Bureau of Indian Affairs. Applicants had to be of Klamath parentage on at least one side, and those of one-quarter or more Klamath heritage were automatically admitted upon application. In 1945 a clause was added permitting adoption of members of one-sixteenth heritage, contingent upon assurances that they would reside upon the reservation and participate in tribal activities.

In practice, Indian heritage of any sort, and not merely that stemming from the Klamath Tribe, was reckoned in; and token assurances of participation and residence have conventionally been accepted. Of the final enrollment of 2,133 tribal members, 86 fell within the category of one-sixteenth quantum. Of these, 12 dwelt on the reservation and another 12 in Klamath Falls, the remaining 62 residing at some distance from the seat of tribal government. Once enrolled, members have not been subject to review, save when their original qualifications were called into question.

In a membership that was not conditional upon performance, the Tribe had a great deal in common with such ascriptive entities as the family and ramified kin, the traditional tribe, and the broad regional communities into which the latter had tended to cluster.

Family loyalties have been at once strong and selective. At times, they have provided continuities of interest within a single line. Here, for example, were the Rev. Jesse Kirk, himself the son of a treaty signatory, and his sons, Clayton, Seldon, and Jesse Lee; here old chief Monchnkasgitk, and his sons, Harrison and Henry Brown; here Judge William Crawford, his wife, Eliza, and their son, Wade; here Henry Jackson, his half-brother, Ike, and the latter's son, Boyd Jackson.